

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

**S.L., a minor, by and through her
parent and legal guardian, D.L.,**

Plaintiff,

v.

**CIVIL ACTION NO.: 3:18-CV-162
(GROH)**

**BERKELEY MEDICAL CENTER,
WEST VIRGINIA UNIVERSITY
HOSPITALS, INC., and WEST
VIRGINIA UNITED HEALTH SYSTEMS,**

Defendants.

ORDER GRANTING MOTION TO DISMISS

Currently pending before the Court is the Plaintiff's Motion to Dismiss. ECF No. 10. Therein, the Plaintiff requests that the Court dismiss West Virginia University Hospital, Inc. and West Virginia United Health Systems as parties to this case. The Plaintiff further requests leave to amend her complaint to name the proper parties. The Plaintiff has already filed the Amended Complaint on the docket. ECF No. 9. The Defendants did not file a response to the motion. Accordingly, the motion is unopposed.


Under Federal Rule of Civil Procedure 15(a), "[a] party may amend its pleading once as a matter of course . . . if the pleading is one to which a responsive pleading is required, [within] 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Otherwise, "a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2).

“[L]eave to amend a pleading should be denied only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile.” Johnson v. Oroweat Foods Co., 785 F.2d 503, 509 (4th Cir. 1986) (citing Foman v. Davis, 371 U.S. 178, 182 (1962)).

Here, the Plaintiff moved to amend her complaint one month after the initial complaint was filed. Moreover, the Plaintiff’s Amended Complaint merely corrects the parties listed as Defendants. Accordingly, the Court finds that the Plaintiff’s proposed amendment would not be prejudicial, is not made in bad faith and is not futile.

Therefore, upon consideration and finding good cause, the Court **ORDERS** that the Defendant’s Motion to Dismiss [ECF No. 10] is hereby **GRANTED**. The Court further **ORDERS** that leave to amend is **GRANTED**. The Clerk is **DIRECTED** to transmit copies of this Order to all counsel of record herein.

DATED: November 27, 2018


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE